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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
|-----------------|-------------|----------------------|---------------------|

09/284,222      07/22/99      TSUJIMOTO      H      P990708

026263      IM62/1121  
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EXAMINER

WEINER, L

ART UNIT

PAPER NUMBER

1745

DATE MAILED:

11/21/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

|                              |                 |                  |  |
|------------------------------|-----------------|------------------|--|
| <b>Office Action Summary</b> | Application No. | Applicant(s)     |  |
|                              | 09/284,222      | TSUJIMOTO ET AL. |  |
|                              | Examiner        | Art Unit         |  |
|                              | Laura S Weiner  | 1745             |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 10 October 2000.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 7-15 is/are allowed.
- 6) ☐ Claim(s) 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

- |                                                                                               |                                                                              |
|-----------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| 15) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 20) <input type="checkbox"/> Other: _____                                    |

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## **DETAILED ACTION**

### ***Response to Amendment***

1. Examiner acknowledges the addition of claims 13-16 cited in Amendment F filed 10-10-00. Examiner acknowledges the cancellation of claims 1-6 and addition of claims 7-12 cited in PreAmendment A dated 9-22-99. Claims 7-16 have been examined on their merits.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

The rejection of claims 7-9, 11-12 under 35 U.S.C. 102(b) as being anticipated by Fujiura et al. (EP 0 726 607 A1) and the rejection of claim 10 under 35 U.S.C. 103(a) as being unpatentable over Fujiura et al. (EP 0 726 607 A1) has been withdrawn because of the amendment to claim 7 stating that the active material comprises a carbonaceous material therefore the claims are directed to lithium ion secondary batteries instead of alkaline batteries which is taught by Fujiura et al.

### ***Specification***

3. The disclosure is objected to because of the following informalities: On page 8, it is unclear how  $\text{LiNi}_y\text{Co}(1-y)\text{O}_2$  is represented by  $\text{Li}_x\text{MO}_2$  because there is no variable on the M.

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There also seems to be a discrepancy on defining the x value. In one range x is less than 0.005 and in the other range x is less than 0.05.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. Claim 16 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support for the battery to comprise  $\text{LiMxO}_2$  but there is support for  $\text{LixMO}_2$  as taught on page 8.

5. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what is the other range for the “x” component because the claims states “ $0.05 \leq x \leq$  is contained”.

***Allowable Subject Matter***

6. Claims 7-15 are allowed.

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***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Weiner whose telephone number is (703) 308-4396. The examiner can normally be reached on Monday-Friday from 7:30 a.m. to 4:00 p.m.

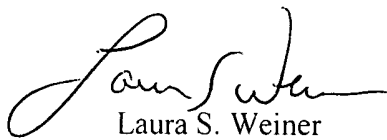
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Maria Nuzzolillo, can be reached on (703) 305-3776. The official fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in cursive script, appearing to read 'Laura S. Weiner', is positioned above the printed name.

Laura S. Weiner  
Primary Examiner  
Art Unit 1745  
November 16, 2000